

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

CHARLES CRABLE,

Plaintiff,

-v.-

5:15-CV-1084
(BKS/ATB)

PREMIER BATHS, INC.,

d/b/a PREMIER CARE IN BATHING,

and BILL KELLY

Defendant.

CHARLES CRABLE

Plaintiff, pro se

ANDREW T. BAXTER, United States Magistrate Judge

DECISION and ORDER

On September 4, 2015, pro se plaintiff Charles Crable filed his Complaint, together with an application to proceed in forma pauperis (“IFP”). (Dkt. Nos. 1, 2). On September 9, 2015, after reviewing the Complaint, I issued an Order granting plaintiff’s application to proceed IFP, and ordering service of process on both defendants by the United States Marshal. (Dkt. No. 4). Service by mail was completed on September 22, 2015. (Dkt. No. 8, 17). Counsel for defendants, who has not formally appeared in this matter, and who is not currently admitted to practice in the Northern District of New York, submitted a letter request dated October 26, 2015, seeking an extension of defendants’ time to answer to November 16, 2015. I granted this request on October 28, 2015. The clerk also directed defendants’ purported counsel to advise the court in writing of compliance with this District’s attorney admission requirements and whether

he will remain counsel of record.

Plaintiff filed an Amended Complaint on October 28, 2015, without proof that service was made upon defendants. The Clerk has now sent me the Amended Complaint for review. Plaintiff brings this action pursuant to the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201, *et. seq.*, alleging that defendants failed to pay minimum wage and overtime compensation in accordance with the FLSA. (Dkt. No. 1.) A review of the Amended Complaint shows that he has added a second FLSA cause of action, alleging wrongful termination by defendants in retaliation for plaintiff's inquiries into the terms of his employment contract. (Dkt. No. 14). This court makes no finding as to the ultimate merit of any of the claims asserted by plaintiff.

As no counsel of record has appeared for defendants, service of the Amended Complaint must be made upon both defendants. In light of plaintiff's IFP status, this court will order that such service again be completed by the United States Marshal. As a courtesy, a copy of the Amended Complaint will also be sent to defendants' purported counsel, Michael Goettig. Once counsel for defendants has formally appeared, all other pleadings or notices will be available electronically through the CM/ECF system.

WHEREFORE, it is hereby

ORDERED, that the Clerk forward a copy of this Order and the Amended Complaint (Dkt. No. 14), to the United States Marshal for service upon the named defendants at the addresses previously provided by plaintiff (Dkt. No. 6), and it is

ORDERED, that the Clerk provide a copy of this Order and a copy of the Amended Complaint to defendants' purported counsel, Michael Goettig, Davis Wright

Tremaine LLP, 21st Floor, 1251 Avenue of the Americas, New York, New York 10020-1104; and it is

ORDERED, that defendants' November 16, 2015 extended deadline to respond to plaintiff's original complaint (Dkt. No. 11) be terminated as moot in light of the filing of the Amended Complaint; and it is

ORDERED, that a formal response to plaintiff's amended complaint be filed by the defendants or defendants' counsel as provided in the Federal Rules of Civil Procedure, subsequent to service of process on the defendants, and it is

ORDERED, that the in-person Initial Conference scheduled for December 21, 2015 and all deadlines associated with the Civil Case Management Plan and Mandatory Disclosures are adjourned without date, to be rescheduled once counsel for defendants has appeared in this proceeding; and it is

ORDERED, that any paper sent by a party to the Court or the Clerk shall be accompanied by a certificate setting forth the date a true and correct copy of it was mailed to all opposing parties or their counsel. **Any letter or other document received by the Clerk or the Court which does not include a certificate of service which clearly states that an identical copy was served upon all opposing parties or their attorneys may be stricken by the Court.** Plaintiff shall also comply with any requests by the Clerk's Office for any documents that are necessary to maintain this action. All motions shall comply with the Local Rules of Practice of the Northern District, and it is further

ORDERED, that the Clerk serve a copy of this Order upon Plaintiff in

accordance with the Local Rules.

Dated: November 4, 2015



Hon. Andrew T. Baxter
U.S. Magistrate Judge